HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

MISC. APPEAL (C) NO. 309 of 2007

APPELLANT Mohammad Akram, Age - 39 years, S/o Late - Mohammad Kasam, R/o Chandni Chowk, Nehrunagar, Tahsil &District, Raipur (CG)

Versus

RESPONDENTS

1) Salikram Sahu, Age-45 years, S/o Girdhari Sahu, Occupation - Driver of Mini Bus, R/o Lakhenagar, Raipur, Tahsil& District, Raipur (CG)
2) Tomeshwari Verma, W/o Late - MC Verma, R/o Quarter No.126, Sector - 2, Shankar Nagar, Raipur, Tahsil & District Raipur
3) The new India Insurance Company Limited, Branch Office No.2, Through Divisional Manager, Disvisional Office - RDA Building, bajrang Market, Raipur Tahsil & District Raipur (CG)

Present : Shri AS Iqbal, counsel for the appellant.
None for the respondents.

ORAL ORDER
(Passed on 13th March, 2007)

The following oral order of the Court was passed by

Vijay Kumar Shrivastava, J.

This is an appeal filed under Section 173 of the Motor Vehicle Act 1988 (henceforth "the Act") for enhancement of compensation, against the award dated 29.11.2006, passed by XIth Additional Motor Accident Claim Tribunal, (FTC), Raipur (CG) (henceforth "the Tribunal") in claim case No.94/2006, whereby compensation of Rs.29,808/- has been awarded in favour of the appellant.

2) Briefly stated facts are that on 18.06.2005 when the appellant was going to Nawapara Rajim on a minibus bearing registration No.CG-04-ZA-0148 (for short 'the vehicle'), which was driven by respondent No.1 in a rash and negligent manner, the vehicle turned turtle, resultantly the appellant sustained injuries. Appellant filed an application under Section 166 of the Act for grant of compensation against respondents who are driver, owner and insurer of the vehicle.

3) Respondents contested the claim. The Tribunal after assessing evidence on record, allowed compensation as below :

(a) Medical expenses	Rs.5,000/-
(b) Pain and suffering	Rs.5,000/-
(c) Loss of income	Rs.9,808/-
(d) Special diet	Rs.5,000/-
(e) Attendant and transport	Rs.5,000/-
Total	**Rs.29,808/-**

4) Learned counsel for the appellant contended that appellant was not allowed just and proper compensation.

4) We have gone through the award. No medical evidence has been adduced by the appellant before the Tribunal; even there is no document to support that appellant suffered serious injuries or was admitted in any hospital. During the course of arguments appellant

draw our attention towards three documents annexed along with the appeal to show the injuries sustained by the appellant. On perusal of those documents, it is manifest that one of them is a report issued by Ruprela X-Ray & Sonography Centre, Raipur, which is related to a child, aged 12 years, definitely this documents is not the report of appellant, who is aged 31 years, another report dated 24.04.2006 i.e. near about 10 months later of the accident; this document also does not show any fracture or serious injury. One another document has also been annexed, which has been obtained after four days from the date of accident, but in absence of x-ray report has no force to support any fracture. Therefore, in view of such contradictory documents no one can accept that appellant sustained any grievous injuries, even otherwise these documents are not proved or admitted documents having force of legal evidence.

5) Even in absence of medical evidence, the Tribunal allowed compensation on various heads as stated above, it appears that sympathy alone compelled the Tribunal to allow such a compensation. We are unable to accept that the compensation awarded to the appellant is not just or not proper.

6) In the result, the appeal being devoid of merit is liable to be dismissed and accordingly it is dismissed in limine. No costs.

Sd/-
Chief Justice

Sd/-
V.K. Shrivastava
Judge